

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

| | | |
|---------------------------|---|---------------------|
| RICKEY L. JACKSON, |) | |
| |) | |
| Movant, |) | |
| |) | |
| v. |) | No. 1:09CV00032 ERW |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Respondent. |) | |

MEMORANDUM AND ORDER

This matter is before the Court on movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255.¹ The motion will be summarily dismissed.

Movant was originally indicted by the Grand Jury for the Eastern District of Missouri, Southeastern Division, on May 21, 1998. A superseding indictment was returned on June 17, 1998, charging that beginning at a time unknown to the Grand Jury but including in and around June of 1996 through the date of the indictment, movant conspired with persons known and unknown to the Grand Jury to knowingly

¹Although movant has titled his action "Independent Action: Fraud on the Court," because movant seeks to attack his judgment, the action will be construed as a motion to vacate pursuant to 28 U.S.C. § 2255. See, e.g., United States v. Farley, 971 F. Supp. 184, 185 (E.D. Pa. 1997) (habeas petitioners may not circumvent AEDPA's requirements through creative titling of their petitions).

distribute cocaine base in violation of 21 U.S.C. §846. On December 18, 1998, following a five-day trial, a jury found movant guilty. Movant was sentenced to life imprisonment.

Movant timely filed a notice of his appeal, and on November 18, 1999, the Court of Appeals denied movant's appeal. United States v. Jackson, 205 F.3d 1348 (8th Cir. Nov. 18, 1999) (unpublished per curiam).

Movant subsequently filed a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. See Jackson v. United States, No. 1:00CV108 ERW (E.D. Mo.). This Court denied the motion on April 9, 2001, without issuing a certificate of appealability. The United States Court of Appeals for the Eighth Circuit subsequently denied movant's application for certificate of appealability. Jackson v. United States, No. 01-2226 (8th Cir. 2001). Movant subsequently filed five additional motions to vacate pursuant to 28 U.S.C. § 2255, which were denied and/or transferred as successive. See Jackson v. United States, No. 1:05CV32 ERW (E.D. Mo.); Jackson v. United States, No. 1:06CV32 ERW (E.D. Mo.); Jackson v. United States, No. 1:06CV85 ERW (E.D. Mo.); Jackson v. United States, No. 1:06CV143 ERW (E.D. Mo.); Jackson v. United States, No. 1:08CV127 ERW (E.D. Mo.).

Movant filed the instant motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 on March 25, 2009, arguing, for the seventh time, that his conviction should be overturned.

Under 28 U.S.C. § 2255:

A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain--

(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense . . .

Absent certification from the United States Court of Appeals, this Court lacks authority under § 2255 to grant movant's requested relief. As a result, the motion shall be dismissed.

Accordingly,

IT IS HEREBY ORDERED that movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 is **DISMISSED**.

An Order of Dismissal shall accompany this Memorandum and Order.

So Ordered this 6rd Day of April, 2009.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE